

SUBCHAPTER 9. WATERSHED MANAGEMENT GRANTS

7:15-9.1 Scope and purpose

(a) The purpose of this subchapter is to set forth the rules governing grants from the Watershed Management Fund to assist watershed management groups in the funding of watershed management activities in accordance with the Watershed Protection and Management Act of 1997, N.J.S.A. 58:29-1 et seq. This subchapter establishes policies and procedures for the award and distribution of Watershed Management Fund monies.

7:15-9.2 Project Priority System and Project Priority Award List

(a) Each year the Department shall develop a Project Priority System that establishes the project category priorities for watershed management grants for that year.

(b) The Department shall publish a notice of availability of watershed management grants in the New Jersey Register, identifying the Project Priority System, application requirements, and deadline for submittal of applications. This notice shall additionally be posted on the Division of Watershed Management's web site (www.state.nj.us/dep/watershedmgt).

(c) Unless otherwise specified in the notice of availability, the Department shall, in general, give priority to the following watershed management activities:

1. The initial establishment of watershed associations and/or stakeholder groups to support watershed management planning activities;
2. Watershed management activities identified as a priority action in a adopted Watershed Management Area (WMA) Plan ;
3. Watershed management activities identified by a PAC as a priority action prior to adoption of a WMA Plan;
4. Watershed management activities that are designed to address documented water resource problems or issues of particular concern in a subwatershed, watershed or watershed management area, as indicated in the Statewide Water Quality Inventory Report prepared by the Department pursuant to Section 305(b) of the Federal Clean Water Act (33 U.S.C. §1315(b)), or a characterization and assessment of water quality and water quantity report prepared by or for the Department, or other Department-approved sources of assessment;

5. Watershed management activities conducted in partnership with other watershed management groups or other entities or interests other than those participating in the applicant's watershed management group;

6. Monitoring and/or modeling activities designed to support the development, implementation and assessment of TMDLs for waterbodies listed on the most recently approved Water Quality Limited Segments (WQLS) List;

7. Watershed management activities to be conducted for an entire watershed management area or areas; and

8. Development of watershed or subwatershed management strategies.

(d) Each year, the Department shall develop a Project Priority Award List for projects determined to be eligible for funding based on the Project Priority System. The list shall be submitted to the Legislature for consideration and approval in accordance with N.J.A.C. 7:15-9.5.

7:15-9.3 Pre-application procedures

(a) The Department encourages potential grant applicants to consult with the Department and the applicable PAC(s) prior to application submission in order to facilitate preparation and evaluation of the grant application. Inquiries to the Department may relate to procedural or substantive matters and may range from informal telephone advice to pre-arranged meetings.

(b) Watershed management grants shall only be issued to watershed management groups recognized in accordance with the following:

1. A watershed management group is a group recognized by the Department as the entity representing various interests within one or more watersheds or subwatersheds located in a watershed management area and whose purpose is to improve the condition or prevent further degradation of a watershed or watersheds.

2. The activities of a watershed management group may include:

i. Holding public meetings to discuss and exchange information on watershed issues;

ii. Establishing and operating a stakeholder's advisory group or groups or water-

shed associations dedicated to preserving and protecting a watershed;

iii. Engaging in water quality and quantity monitoring, water quality modeling or assessment of the condition of a watershed;

iv. Developing policy goals to reduce the amount of pollutants discharged into a watershed;

v. Developing projects designed to enhance or restore a watershed; or

vi. Developing, in consultation with the Department and the PAC established for the WMA, a watershed management strategy, or the reassessment of a watershed to determine whether the policies, goals or the objectives of a WMA Plan or a watershed management strategy have been attained. The watershed management strategy addresses one or more watersheds or subwatersheds and is developed by the watershed management group, whereas the WMA Plan addresses the watershed management area, which consists of more than one watershed, and is developed by the Department.

3. At a minimum the following entities and individuals shall be invited to participate in a watershed management group:

i. The mayor or equivalent government official, or such official's designee, for each municipal government located partially or entirely within the watershed or watersheds represented by the watershed management group;

ii. The county board of freeholders, or the freeholders' designee, for each county located partially or entirely within the watershed or watersheds represented by the watershed management group;

iii. A representative of water purveyors;

iv. A representative of wastewater utilities or authorities;

v. A representative of the business community;

vi. A representative of the development community;

vii. A representative of the agricultural community, if appropriate;

viii. A representative of the applicable Soil Conservation District(s);

- ix. A representative of the academic community;
- x. A representative of the environmental community;
- xi. A representative of the general public; and

xii. An official of any regional planning agency (including regional planning boards established pursuant to N.J.S.A. 40:55D-77 et seq.) that has been created for all or part of the watershed or watersheds to be represented by the watershed management group, as applicable.

4. A request for recognition as a watershed management group shall be submitted to the Department with a copy to the applicable PAC(s) and include the following information:

- i. A copy of the mailing list used to establish the watershed management group, including the entities identified in (c) above;
- ii. A copy of the letter of invitation to participate in the watershed management group;
- iii. A copy of the responses from those officials or representatives agreeing to participate;
- iv. A copy of the responses from those officials or representatives declining to participate; and
- v. In cases where no response to the letter of invitation was received within 60 days, the group shall send a follow-up request by certified mail, return receipt requested, and submit proof of such follow-up.

5. The Department shall respond in writing within 45 days of the receipt of a complete request for recognition as a watershed management group.

6. To qualify for funding under this chapter, a watershed management group shall make an application to the Department for recognition, identify a government entity, 501(c)3 corporation or other corporate entity that will serve as the fiscal agent for the watershed management group and provide a statement of agreement from that entity to serve as the fiscal agent for the watershed management group. The fiscal agent shall be responsible for all financial interactions with the Department.

7. All meetings of a watershed management group shall be open to the public with prior notification in a newspaper of general circulation that covers area of the group.

(c) Potential grant applicants are encouraged to obtain recognition as a watershed management group at least 60 days prior to the submittal of grant applications.

7:15-9.4 Application procedures for grants for watershed management activities

(a) Any recognized watershed management group may submit an application to the Department for a watershed management grant.

(b) The watershed management group should submit an application pertaining to watershed management activities for which the watershed management group has a high probability of success. Factors for consideration include the extent to which available resources (personnel and fiscal) are sufficient for complete and successful implementation of the activities and achievement of the stated objectives.

(c) The applicant shall submit the information identified in the notice of availability published annually by the Department, in accordance with N.J.A.C. 7:15-9.2. In order to be considered for a grant, the information shall be submitted by the application deadline specified in the notice of availability.

(d) Grant applications shall provide, at a minimum, the following information, as specified in the notice of availability:

1. Proof that the applicant has been recognized as a watershed management group in accordance with N.J.A.C. 7:15-9.3(b);

2. A description of the watershed or watersheds in which the activity is to be conducted, including a map as appropriate;

3. A scope of work that includes an executive summary, a description of the proposed watershed management activities, environmental objectives and measures (as appropriate), a budget, and a schedule for completion;

4. A description of how the proposed activities correspond to and will achieve the goals and objectives of this chapter and conformance with the priorities defined in the annual Project Priority System or N.J.A.C. 7:15-9.2;

5. A description of any proposed environmental monitoring, including evaluation criteria, environmental indicators, and an approved quality assurance/quality control plan, as applicable;

6. Identification of the source and availability of any additional supplementary funds, in the form of cash, in-kind services or both, to be used with this grant to implement the proposed watershed management activity;

7. Identification of all personnel and consultant(s) who will be performing the activity and a description of their experience and expertise in the proposed watershed management activity; and

8. Evidence that the PAC(s) of the watershed management areas within which the proposal is located were provided an opportunity to comment on the proposal, including a copy of the PAC's response.

9. Any additional information as specified in the notice of availability.

(e) If a grant is awarded, a grant agreement shall be executed between the Department and the watershed management group. The watershed management group is responsible for all performance reports, expenditure reports, deliverables and all other requirements specified in the executed grant agreement.

(f) A watershed management group may contract for services for all or part of the grant to another person or entity to perform a watershed management activity(ies) in accordance with Department procedures and forms provided in the grant agreement, subject to the following conditions:

1. The watershed management group shall not enter into any contract with any person debarred, suspended or disqualified from Department contracting pursuant N.J.A.C. 7:1-5 for any services within the scope of work;

2. If the watershed management group distributes a grant to a person who has a NJPDES permit to discharge pollutants into the waters of the State pursuant to N.J.A.C. 7:14A, the distribution shall be conditioned upon the NJPDES permittee providing a match of one dollar for every dollar distributed to the NJPDES permittee. The match may be made either as a monetary payment or as an in-kind contribution; and

3. The use any of the grant monies for the purpose of complying with a NJPDES permit is prohibited.

(g) All grant applications, grant agreements and any supporting documentation are public records.

(h) Unless otherwise specified in the notice of availability, applications for watershed management grants shall be submitted to:

**New Jersey Department of Environmental Protection
Watershed Management Grant Program
Division of Watershed Management
P.O. Box 418
Trenton, New Jersey 08625-0418**

7:15-9.5 Project priority award process

(a) The Department shall submit the Project Priority Award List of recommended watershed management grant projects developed under N.J.A.C. 7:15-9.2 to the Legislature for consideration and approval.

(b) The Department shall publish a notice in the DEP Bulletin and on the Division of Watershed Management web site (www.state.nj.us/dep/watershedmgt) of those projects recommended to the Legislature for approval in the Project Priority Award List.

(c) For all watershed management grant applications included on the Project Priority Award List and approved by the Legislature, the Department shall transmit to the applicant for execution a grant agreement specifying the terms and conditions of the grant, including the scope of work, the approved budget, and the schedule for completion. The applicant shall execute the grant agreement in the manner specified by the Department and shall return the grant agreement to the Department within 60 days, unless the applicant has requested and received from the Department an extension of the 60-day period. If the grant agreement is not returned by the deadline, the Department reserves the right to award the grant monies to the next highest ranked eligible project.

(d) Funds under a watershed management grant shall be released only after a grant agreement has been executed by both the applicant and the Department.

(e) The budget in the grant agreement shall specify the items eligible for funding under this subchapter, which may include, for example:

- 1. Costs of materials, supplies and reproduction for reports, policy recommenda-**

tions, draft ordinances, publications, maps, diagrams and other similar documents;

2. Project implementation costs, including costs for travel, materials, tools, and disposal costs for debris;

3. Equipment purchases such as computers and global position satellite units may be eligible for grant funding. However, upon completion of the grant commitments, these purchases are subject to the Department's procedures for the disposition of equipment purchased with State funds;

4. Contractual costs for services necessary to implement the grant;

5. Costs of acquisition of real property, including administrative costs, where such property must be acquired as a site for the construction or implementation of nonstructural stormwater management, nonpoint source pollution controls or best management practices, including but not limited to, real property to be used for buffers or to protect aquifer recharge areas; and

6. The acquisition of land, as a means of avoiding new pollutant inputs or water body degradation, may be made eligible, if included in the notice of availability, but shall have a lower priority for watershed management grants than implementation projects that mitigate current stresses or prevent future stresses to water and water-related resources in ways other than land acquisition.

(f) The following items are not eligible for funding under this subchapter:

1. Building construction or other kinds of real property improvements;

2. Bonus payments, charges for contingency reserves, deficits or overdrafts, costs of discounts not taken and interest expenses;

3. Costs of services, materials or equipment obtained under any other State or Federal grant or loan program;

4. Costs of fund raising and lobbying;

5. Work performed at the direction of a county or municipal government which has not been awarded in compliance with the Local Public Contracts Law, N.J.S.A. 40A:1-1 et seq.;

6. Costs associated with the compliance with permit conditions or enforcement

orders; and

7. Any additional item(s) specified by the Department in the notice of availability and the grant agreement as not eligible for funding.

7:15-9.6 Administration and performance of grants

(a) The Department shall release funds to the grant recipient in accordance with the terms of the grant agreement. Upon execution of the grant agreement, up to 60 percent of the grant award may be released. If the grant agreement is for a multiple-year project, up to 60 percent of the funds budgeted for each year may be released at the beginning of each contract year.

(b) After the initial release of funds, any subsequent release of State funds is conditioned upon the submittal of properly documented expenditure reports and final deliverables.

(c) As the grant recipient, the watershed management group has sole responsibility for the administration and success of the grant project, including any work performed on behalf of the grant recipient for accomplishing grant objectives. Watershed management groups are encouraged to seek the advice and opinion of the Department on problems that may arise; however, such advice shall not shift the responsibility for final decisions from the recipient to the Department. The watershed management group shall be solely responsible for the use of the grant funds awarded pursuant to this subchapter in conformance with applicable State requirements to achieve grant and program objectives and to ensure the most efficient use of public funds.

(d) The grant recipient shall supply performance reports to the Department within the time period specified in the grant agreement.

(e) The grant recipient shall supply expenditure reports to the Department within the time period specified in the grant agreement.

7:15-9.7 Project changes: amendment of grant agreement

(a) The grant recipient shall promptly notify the Department in writing (certified mail, return receipt requested) of any event or proposed change which may require an amendment of the grant agreement, including the following:

1. A significant change in budgeting cost or in scope of work;

2. A significant change in the scheduled project completion date;
3. A significant changed conditions at the project site;
4. A change in the schedule in the time for performance of the project or any major phase thereof;
5. A change in personnel responsible for grant and subsequent project implementation; and
6. A change in approved technical plans or specifications for the project.

(b) If the Department determines that a formal amendment is necessary, it shall notify the grant recipient and a formal amendment to the grant agreement shall be prepared and executed.

(c) If the Department determines that the project change does not require an amendment of the grant agreement under (a) and (b) above, the Department shall notify the grant recipient in writing.

7:15-9.8 Noncompliance

(a) If the grant recipient does not comply with the terms and conditions of the grant agreement, the Department may:

1. Issue written notice identifying the deficiency (for example, failure to submit timely performance reports) and directing the grant recipient to correct the deficiency;
2. Meet with the grant recipient to review the terms and conditions of the grant agreement and amend the grant as necessary;
3. Demand reimbursement of any advance payment(s) and/or withhold scheduled payments under the grant agreement;
4. Rescind the grant agreement by issuance of a notice of termination of grant award; or
5. Award the grant to another watershed management group to perform the previously approved scope of work.